ANNUAL REPORT 2008–09

# INNOVATION
## IS OUR TRADITION

Hazardous Materials Information Review Commission

Conseil de contrôle des renseignements relatifs aux matières dangereuses

Canada

twenty

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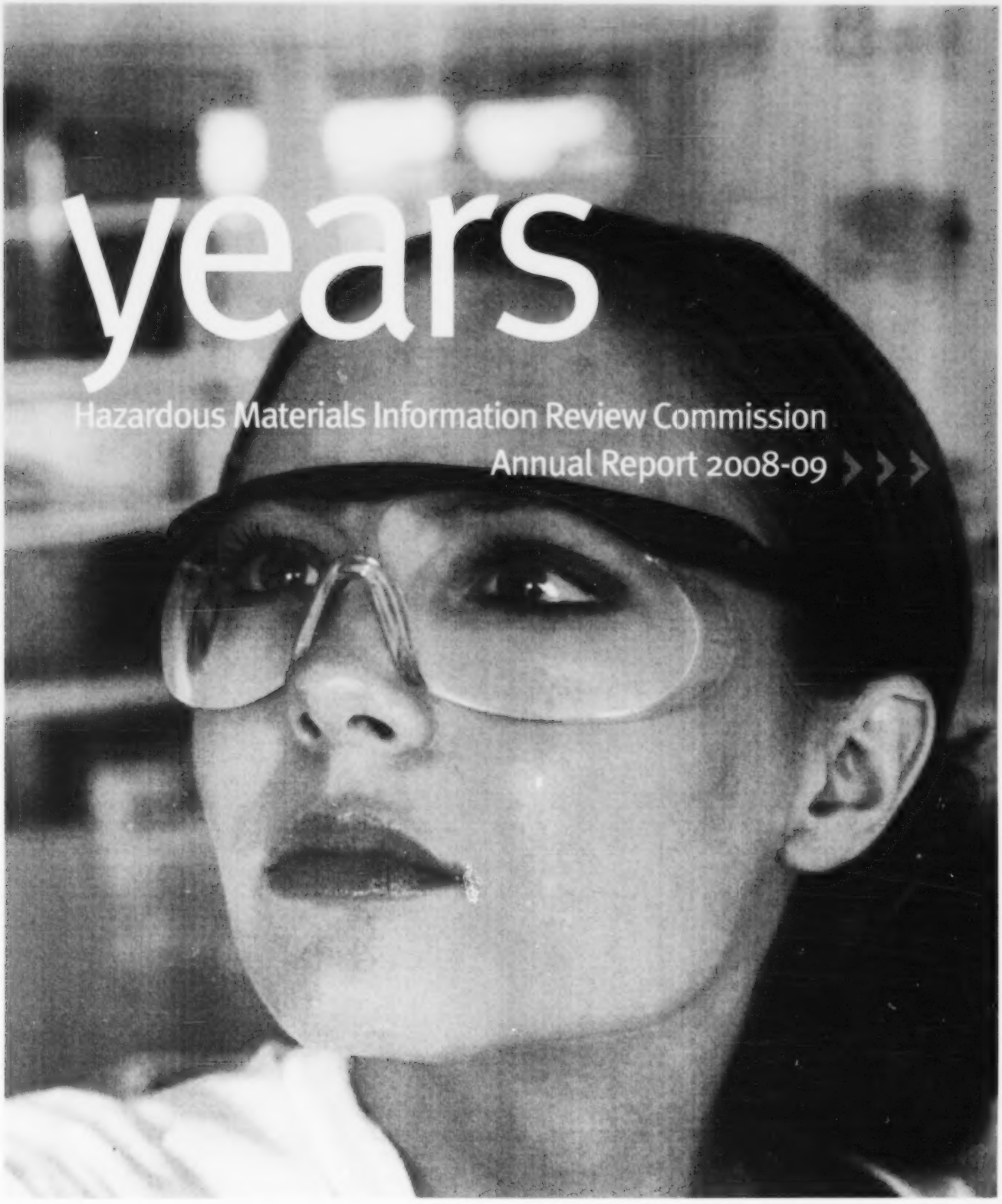
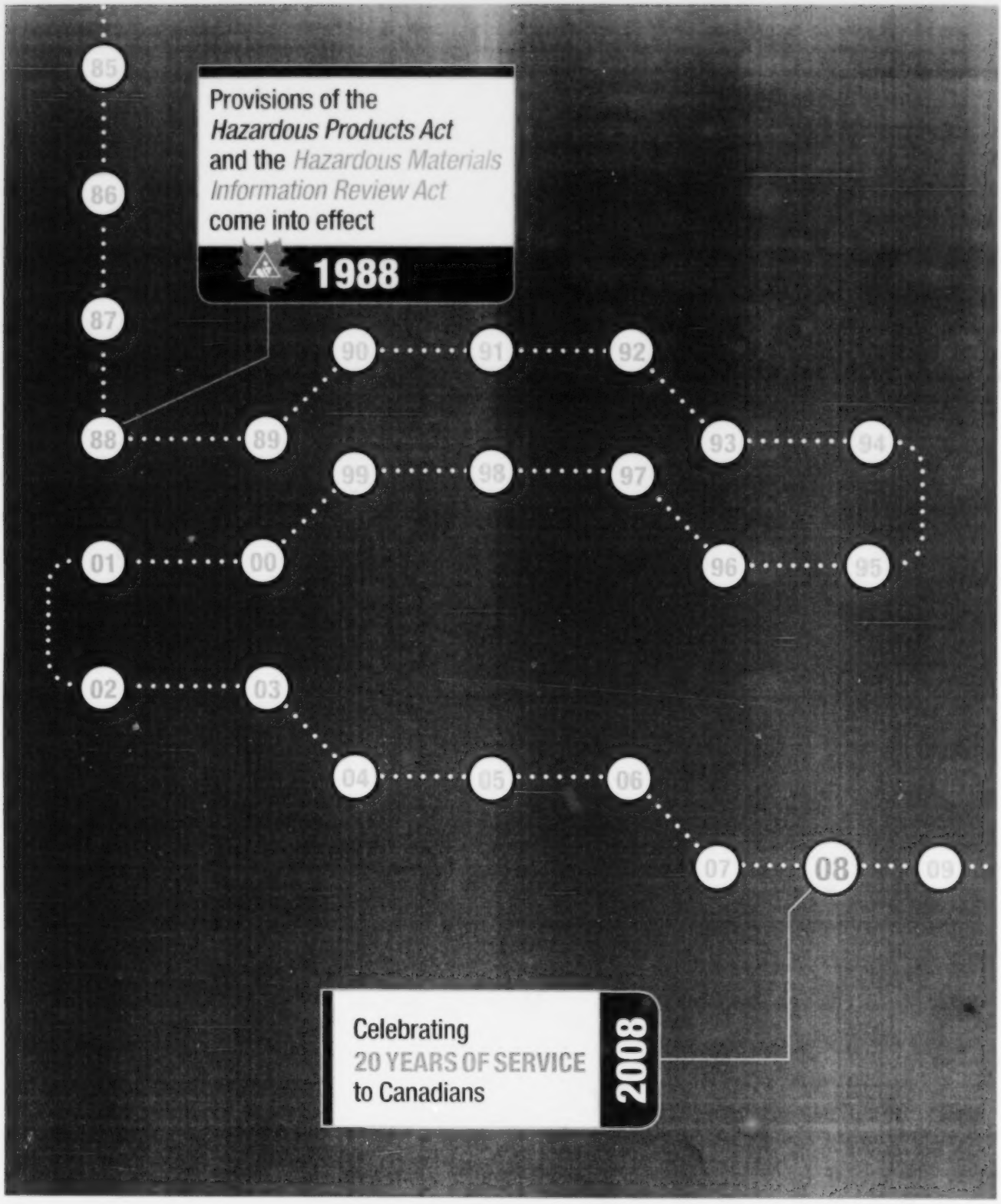



# Hazardous Materials Information Review Commission
## Annual Report 2008-09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Provisions of the
Hazardous Products Act
and the Hazardous Materials
Information Review Act
come into effect
1988
Celebrating
20 YEARS OF SERVICE
to Canadians
2008

September 8, 2009

The Honourable Leona Aglukkaq, C.P., M.P.
Minister of Health
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister:

I am pleased to submit the Hazardous Materials Information Review Commission's annual report in accordance with subsection 45(1) of the *Hazardous Materials Information Review Act*. This report covers the fiscal year ending March 31, 2009.

Yours sincerely,

Sharon A. Watts
President & CEO

# Table of Contents


| | | |
|---|---|---|
| HMIRC at a Glance | | PAGE 2 |
| President's Message | | PAGE 4 |
| Innovation is our Tradition | | PAGE 6 |
| Innovating for Productivity | | PAGE 7 |
| Innovating to Strengthen our Workforce | | PAGE 8 |
| Innovating Through Outreach | | PAGE 9 |
| Innovating in Partnership | | PAGE 10 |
| Reflections | An Anniversary Roundtable Dialogue | PAGE 11 |
| Milestones | The 80s | PAGE 14 |
| | The 90s | PAGE 15 |
| | The 2000s | PAGE 16 |
| Performance Data | Claims Registration | PAGE 18 |
| | Claim Processing | PAGE 20 |
| | Advice Documents | PAGE 20 |
| | Dispute Prevention | PAGE 20 |
| | Compliance Trends | PAGE 21 |
| Financial Summary | | PAGE 23 |
| Council of Governors | | PAGE 24 |
| Overview of the Claim for Exemption Process | | PAGE 25 |
| Our Contact Information | | PAGE 28 |

## List of Figures


Cooperative Partnerships ..... Page 2

Governance ..... Page 3

Claims Registered Over Last 5 Years ..... Page 18

New and Refiled Claims Registered – Last 5 Years ..... Page 19

Provincial, Canada and US Origin of Claims in 2008-09 ..... Page 19

Tracking Elimination Rate ..... Page 20

Number of Active Documents and Document Orders Completed – Last 5 Years ..... Page 20

Number of Violations per Claim – Last 5 Years ..... Page 21

Number of Violations per Claim Type vs. Refiled – Last 5 Years ..... Page 21

Violations for Toxicology, Formulation Ingredients, First Aid ..... Page 22

Council of Governors ..... Page 24

Overview of the Claim Ex Exemption Process ..... Page 27


## List of Tables


Claim Processing Activity ..... Page 7

Tracking Elimination – Year 1 of 5 ..... Page 7

Violations per Claim ..... Page 21

WHMIS Violations in 2008-09 ..... Page 22

# HMIRC at a Glance

The Hazardous Materials Information Review Commission (HMIRC) is tasked with balancing the chemical industry's right to protect confidential business information with the right of employers and workers to be informed about the chemical materials they work with and associated health and safety hazards.

The Commission is an independent agency governed by the *Hazardous Materials Information Review Act* and related regulations. HMIRC impartially renders decisions on claims for exemption from the disclosure requirements set out by the Workplace Hazardous Materials Information System (WHMIS). It also administers a quasi-judicial appeals process, in keeping with the interests of the federal, provincial and territorial governments. WHMIS requires chemical manufacturers, importers, distributors, and employers to produce cautionary labelling for containers of controlled products and to provide a material safety data sheet (MSDS) for every hazardous product produced or used in Canadian workplaces—specifying, among other things, hazardous ingredients, toxicological properties, worker safety precautions, and first-aid treatment in cases of exposure. HMIRC is charged with evaluating MSDSs and labels provided by chemical companies that apply for trade secret exemption.

## A critical mandate

Specifically, HMIRC is responsible for:

- Registering claims for trade secret exemptions and issuing registry numbers
- Adjudicating and issuing decisions on the validity of claims for exemption using prescribed regulatory criteria
- Rendering decisions on the compliance of MSDSs and labels to WHMIS requirements based on sound scientific principles
- Convening independent tripartite boards to hear appeals from claimants or affected parties on decisions and orders

### COOPERATIVE PARTNERSHIPS

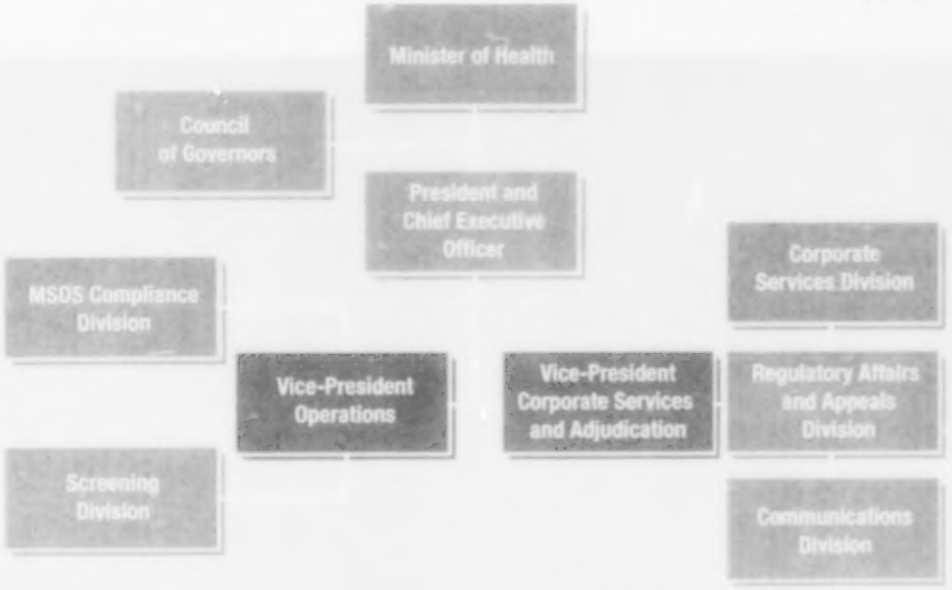
HMIRC works collaboratively and cooperatively with a broad range of WHMIS stakeholders:

## Governance

The Commission's governance structure is collaborative: the Council of Governors acts as the advisory body, providing strategic guidance. The Council's 18 members represented by a Chair and key stakeholder groups—workers, suppliers, employers, the federal government, and provincial and territorial labour ministries and compensation boards responsible for occupational health and safety.

The Commission's President and Chief Executive Officer, appointed by the Governor in Council, carries out the mandate as detailed in the *Hazardous Materials Information Review Act*, as well as strategic plan and policies. The Vice-President of Operations directs the work of the MSDS Compliance and Screening divisions, and the Vice-President of Corporate Services and Adjudication oversees the work of the Corporate Services, Regulatory Affairs and Appeals, and Communications divisions.

HMIRC impartially renders decisions on claims for exemption from the disclosure requirements set out by the Workplace Hazardous Materials Information System (WHMIS).



# President's Message

Innovation is imperative for virtually every organization operating today, and the Hazardous Materials Information Review Commission is no exception. The marketplace, the government environment and the pace of industry demand constant reinvention and continuous improvement.

I'm proud to report that in 2008-09—the Commission's 20th anniversary year—we applied our ingenuity and achieved real progress as a result.

We put into action the improvement plans defined in our 2007-08 Program Integrity Business Case to Treasury Board. After finalizing the funding agreement with Health Canada, we initiated our three-year backlog elimination scheme and by year end had successfully processed 500 claims for exemption, as targeted.

That accomplishment was in large part due to the growth and development of our workforce. Based on detailed process mapping and functional area capacity studies, we added a total of 17 team members. We reassessed educational requirements for evaluators, began accessing pre-qualified pools of talent, and introduced new training methods and tools. In return, we saw notable increases in productivity and a refreshing infusion of energy and enthusiasm.

Our progress is also attributable to the process changes made as a result of the regulatory amendments adopted in fiscal 2008-09. Specifically, we implemented an MSDS (material safety data sheet) voluntary compliance program and launched a database integration initiative that will further streamline the evaluation process.

We are truly proud of all we achieved in the past 12 months, and were buoyed by Treasury Board's acknowledgement of our organizational excellence: following its 2008-09 Management Accountability Framework review, we received strong ratings in the categories of corporate performance and workforce development.

In addition to improving internal processes, last year HMIRC began providing companies with tools to assist with the claim preparation process, including a checklist for drafting the material safety data sheets (MSDSs) required as part of their application for exemption. By working together with chemical manufacturers, we can help improve MSDS compliance and better mitigate safety risks in the workplace.

HMIRC will need to embrace a more strategic agenda and results-based development and management approach to address its challenges while continuing to sustain its operational improvement agenda.

In the coming years, we will build on the momentum we have gathered. We will work collaboratively with Council to complete the strategic planning process begun last year, preparing the Commission for the next three years of operation, and will reach out to other Health portfolio agencies to share best practices.

We will partner with Health Canada, the provinces and territories to review and update the *Hazardous Products Act*, which will be opened for review in 2009-10. In all we do, we will continue to act in a spirit of innovation—alert to opportunities to improve how we interact with stakeholders and carry out the mission with which we are entrusted.

Sharon A. Watts
*President and CEO*

We are truly proud of our successes achieved during these past 12 months, largely due to the growth and development of our workforce, which allowed us to successfully process 500 claims for exemption as targeted in our three-year backlog elimination scheme.

Innovation is our

# Tradition

## Balancing industrial competitive advantage with worker safety

That tradition began 20 years ago with the creation of the Commission itself, a unique agency with a vital role: to safeguard Canadian workers who handle hazardous materials and to protect the trade secrets of companies that manufacture and distribute chemical products for use in workplaces.

HMIRC's progress in 2008-09 demonstrates this innovative spirit. Building on the momentum of the previous year, the Commission made major strides in developing and operationalizing regulatory amendments, reducing the backlog of claims for exemption, reinventing its workforce development strategy and practices, and strengthening its relationships with stakeholders.

Innovating for

# Productivity

## Achieving the year's target of 500 claims

In 2008-09, the Hazardous Materials Information Review Commission began enacting its three-year plan to reduce the backlog of claims for exemption. Progress was significant: the Commission met its year-one goal of processing 500 claims—partly through operationalizing regulatory changes associated with previous amendments to the *Hazardous Materials Information Review Act* and also through administrative efficiencies. With such remarkable progress, the Commission is on track to eliminate its backlog completely by 2011, as planned. The electronic data integration project begun last year will add further momentum by allowing claim evaluators simultaneous access to five separate databases housing key scientific references, including newly digitized resources.

### Developing new tools

In addition to improving internal processes, last year HMIRC also provided companies with tools to assist with claim preparation—including a checklist for drafting the material safety data sheets (MSDSs) required as part of their applications for exemption. The checklist is designed to help applicants produce more accurate, complete and compliant MSDSs, thereby accelerating evaluations.

**CLAIM PROCESSING 2008-09**

| | |
|---|---|
| Backlog – March 31, 2008 | 512 |
| Claims already in process | 196 |
| New Claims Registered | 223 |
| Refiled Claims | 124 |
| Claims Withdrawn | (68) |
| Claims Completed | (504) |
| Claims in Process at year end | (226) |
| Backlog – March 31, 2009 | 257 |

**BACKLOG ELIMINATION – YEAR 1 OF 3**

| | |
|---|---|
| Backlog of Claims at March 31, 2008 | 512 |
| Backlog of Claims at March 31, 2009 | 257 |
| Backlog Reduction (%) | 255 (49.8%) |

## Interview with Dr. Moe Hussain

"HMIRC's commitment to workflow process improvement goes beyond updating old approaches. Instead, we are adopting new, sustainable practices that will contribute to effective workload management over the long term."

DR. MOE HUSSAIN, VICE-PRESIDENT, OPERATIONS BRANCH, HMIRC

Innovating to

# Strengthen our Workforce

## Reducing training time from one year to two months

The rigour and complexity of HMIRC's evaluation process have traditionally required new screening officers and evaluators to undergo a full year of orientation before handling claims independently. By revamping its approach to staffing and training, the Commission significantly accelerated the time between a staff member's hiring and their functioning as an independent evaluator without reducing quality standards.

Among its efforts, the Commission reviewed the educational qualifications required for screening and evaluation positions, and began tapping into existing talent banks within the federal Health portfolio to identify qualified evaluators and accelerate recruitment.

### Building a stronger workforce

HMIRC intensified its focus on staff development, introducing a more concentrated orientation program, individual on-the-job coaching, and a suite of tools for screening officers and evaluators including a user's guide and a template for producing advice documents that summarize the results of claims evaluations.

### Interview with Dr. Yifang Wang

"The intensive three-day training, the one-on-one coaching by experienced Operations staff, the evaluator's user guide and the template for advice document preparation proved to be a marvellous program for getting new evaluators up to a productive level within a very short time."

DR. YIFANG WANG,
EVALUATOR, HMIRC

Innovating Through

# Outreach

## Sharing knowledge to protect worker safety

The value of communication with industry has become increasingly clear to HMIRC: for chemical companies to contribute to worker safety effectively, they must understand how to participate and comply under the HMIRC process.

At the end of March 2009, HMIRC hosted 40 claimants from the U.S. and Canada for a two-day workshop—introducing them to the Commission's evolved processes, gathering feedback and fostering opportunities for networking. The session included a presentation by the Canadian Centre for Occupational Health (CCOHS) showcasing its software tool, which expedites the development of material safety data sheets and improves the accuracy of their information.

Participant response to the event was highly positive: many indicated that regular information sessions would help them stay current on the Commission's work and developments in the field.

### Dispute prevention framework

Beyond the workshop, the Commission actively communicated with companies preparing claims for exemption—addressing more than 300 issues and questions proactively in order to avoid disputes.

### Feedback from Workshop Participants

"The workshop taught many things about the process used by the Commission in assessing a claim for exemption. Also, we now know more about the changes to the revised *Hazardous Materials Information Review Act*."

WORKSHOP PARTICIPANTS, MARCH 2009

Innovating in

# Partnership

## Realizing progress through collaboration

During the past year, HMIRC continued its involvement in the Global Harmonization System for the Classification and Labelling of Chemicals (GHS). GHS is an initiative led by the United Nations to develop a single international system that classifies hazardous chemicals and establishes standards for labels and safety data sheets. In carrying out its role, the Commission participates in the WHMIS Current Issues Committee and related working groups to ensure understanding in Canada of the implications for governments arising from the GHS.

### Governing collectively

HMIRC's 18-member Council of Governors represents the Commission's full set of stakeholders: workers, suppliers, employers, the federal government, provincial and territorial labour ministries and compensation boards responsible for occupational health and safety. In 2009, the Commission and its Council began developing a new strategic plan to guide HMIRC's future activities.

## Interview with Dr. David Bennett

"HMIRC is integral to supporting the worker's right to know and is evidence of the Canadian government's commitment to health and safety. That commitment —and this kind of organization—are especially important to labour."

DR. DAVID BENNETT,
PAST COUNCIL MEMBER,
CLC REPRESENTATIVE,
WHMIS REPRESENTATIVE

HMIRC

# Reflections

## An Anniversary Roundtable Dialogue

On the occasion of its 20th anniversary, the Hazardous Materials Information Review Commission assembled a group of individuals who have played a key role in its history to reflect on the Commission's growth and evolution.

### Participants

**Dr. David Bennett**, past member of Council of Governors (CLC representative, WHMIS representative)

**Dr. Yves Brissette**, current Chair of HMIRC's Council of Governors

**David Curley**, Screening Officer at HMIRC

**Gordon Lloyd**, Vice-President Technical Affairs at the Canadian Chemical Producers' Association, member of Council of Governors (Suppliers)

**Weldon Newton**, past President of HMIRC

**Dr. David Sheppard**, retired Senior Specialist, Environmental and Regulatory Affairs at 3M, past member of Council of Governors (Employers)

**Larry Stoffman**, Director of Occupational Health and Safety at the United Food and Commercial Workers Union, member of Council of Governors (Workers)

**Sharon A. Watts**, President and CEO of HMIRC

Q: Take us back to the beginning. Why was HMIRC formed and what purpose was it intended to fulfill?

**David Sheppard**: When WHMIS was implemented, a dilemma surfaced regarding the right of workers to know about the hazards associated with the substances they work with and the right of industry to protect their trade secrets. HMIRC was formed to balance these two apparently opposite rights. History has demonstrated that they can be balanced successfully. The Commission is unique: there is no other agency like it in the world.

Q: One feature of HMIRC's model is its tripartite Council. How has that structure been instrumental to the Commission's evolution?

**Yves Brissette**: The cooperation among government, labour and industry representatives on the Council is exceptional. In 2006, when Council was invited to appear before a Senate standing committee to answer questions about the Act that governs HMIRC, the senators were surprised by the consensus among our members and were impressed by our achievements.

Q: Why were you appearing before that Senate committee? Why was the Act being reviewed?

**Gordon Lloyd**: It was the culmination of the Commission's renewal effort. A turnaround was critical. The president, Weldon Newton, designed a blueprint for renewal.

**David Sheppard**: Weldon had taken over as President in 1998. He set out to promote a shift in attitude that would resolve problems and reform the Commission.

Q: Weldon, what was your challenge in revitalizing the Commission?

**Weldon Newton**: Fundamentally, the challenge was to rebuild confidence with industry and trust with Commission staff. Most essential to our success through the transformation was the human factor—the ability of our staff to re-energize and focus on change. It also took unwavering commitment by our Council and stakeholders, who believed in the original mandate of the Commission.

Q: What have been some of the most notable improvements in Commission operations?

**David Sheppard**: Changes to the appeals process most certainly. In the 1990s, alternative dispute resolution was used more and appeals became viewed as a last resort. Until that point, HMIRC had been dealing with eight to 10 appeals per year. In 2008, the Commission had its first appeal in eight years.

**Larry Stoffman**: Dealing with the claims backlog has been another significant improvement. Since taking over as President in 2007, Sharon Watts has carried forward the renewal effort and adopted a number of innovative methods to streamline operations and cut costs.

**David Curley**: Until the late 90s, claimants were typically advised of their status up to five years after they'd submitted a claim for exemption. That has changed since 2000. Today's process is more transparent and allows claimants to be involved earlier.

**Sharon Watts**: The improvements to our process allow us to resolve disputes more efficiently and at a lower cost to both parties. As a result, the information workers need for their safety is provided to them sooner—making this a true win-win situation.

Q: This annual report celebrates innovation. How has the Commission adopted new ways of working or influenced the behaviour of industry?

**Gordon Lloyd**: HMIRC understands the importance of a spirit of cooperation with industry. Multi-stakeholder collaboration is part of its culture, which has been critical to its ability to recognize problems, solve them and deliver on solutions.

**David Bennett**: The Commission is an organization with a very focused public mandate. Staying true to that mandate, it has been innovative in its effort to upgrade its resources and improve the process of evaluating material safety data sheets (MSDSs).

**Larry Stoffman**: HMIRC's diligence in alerting Canadian workers and employers to serious issues with the accuracy of those data sheets has inspired many organizations to take a closer look at the quality of their information.

Q: Any final comments about the Commission—its ongoing relevance and its character as an organization?

**Yves Brissette**: The Commission is well respected by Treasury Board for the strides it has made in improving its approach to cost recovery, leveraging technology to achieve greater efficiency in claims analysis and evolving its staffing practices to eliminate the claims backlog.

**Larry Stoffman**: HMIRC's professionalism and its passion for carrying out its mandate is unsurpassed.

**David Curley**: Claimants from all over Canada and the U.S. have expressed how they wish other agencies were as open, cooperative, understanding and transparent as HMIRC.

**David Bennett**: HMIRC is carrying out a necessary social mission with a great deal of efficiency.

**Sharon Watts**: We are committed to ongoing renewal—to staying connected to our mandate and maintaining a forward-thinking orientation. In doing so, we can ensure our relevance over the long term and move Canada's occupational safety and health system to the fore as an international model of excellence.

Milestones

# The 1980s

85 1985

**Tripartite Consultation**
Thus began a consultative process with representatives from government, industry and labour that culminated in the report of the *Project Steering Committee on a Workplace Hazardous Materials Information System* in April 1985.

87 1987

**Creation of WHMIS**
The Workplace Hazardous Materials Information System (WHMIS) is created in June, upholding the right of workers and the general public to be informed about hazardous product ingredients.

1987

**Birth of the Commission**
An agency without precedent anywhere in the world, HMIRC is created in October to balance the information needs of workers with the right of companies within Canada's chemical industry to protect their trade secrets.

88 1988

**Appointment of first Council of Governors**
Members of the Council of Governors are appointed.

1988

**Appointment of first President**
Mr. Claude St. Pierre is appointed President of the Hazardous Materials Information Review Commission.

1988

**Implementation of WHMIS**
WHMIS is implemented through a series of complementary federal, provincial and territorial legislation that becomes effective October 31, 1988.

1988

**Establishment of regulations**
Regulatory framework and fee structure are set out in October 1988.

1988

The Communications section undertakes a major program to inform potential clients about the newly created role of HMIRC by advertisements in national and local newspapers and mailings to chemical suppliers.

Milestones

# The 1990s

1991

**Appeal process defined**
Independent quasi-judiciary appeal process is instituted in January 1991.

1991

**First screening officer decision**
The Commission renders its first formal decision on a claim for exemption.

1995

**First appeal filed**
First appeal filed by industry claimant.

1998

**A time of transition**
Weldon Newton takes over as president, embarking on a 10-year mission of renewal in May 1998.

1998

**Growing the HMIRC team**
Health Canada personnel are transferred to the Commission's central office in December 1998.

1998

**Business lines**
The Commission is reorganized to adopt three business lines designed to provide clients with better and faster service; client services; and MSDS compliance and dispute resolution.

1999

**Blueprint for change**
The Commission lays out in June a comprehensive, multi-year renewal program of administrative, legal, operational and legislative change.

1999

**Material safety data sheets (MSDSs)**
An MSDS Compliance pilot project is implemented offering claimants and affected parties the opportunity to review and comment on the health, safety information and advice provided to the Screening Officers.

Milestones

# The 2000s

2000

**Website**
The Hazardous Materials Information Review Commission's first website was created and posted.

2000

**Workshop for stakeholders**
In accordance with the *Blueprint for Change*'s objective of establishing a mechanism for full consultation on renewal, HMIRC organizes its first workshop in Ottawa on June 15, 2000.

2002

**Capacity Assessment**
The Commission completes its first phase of modern comptrollership implementation that gauges the health of HMIRC's operation against seven criteria: strategic leadership, integrated performance information, motivated people, mature risk management, clear accountability, shared values and ethics, and rigorous stewardship.

2002

**Global Harmonized System for the Classification and Labelling of Chemicals (GHS)**
The Commission gets involved in several aspects of the GHS as a member of the tripartite WHMIS Current Issues Committee, which ensures a common understanding of the GHS as it evolves and establishes a Canadian position on these developments.

2002

**New fee regulations**
Claimants welcome the Commission's new fee structure with one flat lower rate for new and refiled claims and retained the fee reduction for small businesses.

2002

**Endorsing change**
Council of Governors' endorses legislative changes to the Commission's enabling statute and recommends to the Minister of Health Canada.

2003

**Client survey**
As a result of administrative changes from the Commission's renewal program, 90% of claimants replying to the client satisfaction questionnaire have given positive feedback on HMIRC's services.

2004

**Focus of outreach activities**
The Commission launches an awareness project by distributing 30,000 mailing cards to the American chemical industry and over 3,000 to the Canadian chemical industry to increase awareness of the Commission's programs and services and records an increase in number of visits to our website and requests for information.

2004-2008

**Delays due to three federal elections**
Three federal elections were called in 2004, 2006 and 2008 therefore delaying the legislative changes recommendations.

2005

**Changing the Commission's enabling statute**
A stakeholder panel appears in unity before the Senate Standing Committee on Social Affairs, Science and Technology in support of Bill S-40 laying out the first changes to the Commission's enabling statute.

2006

**Widespread support**
Bill S-2 (formerly Bill S-40) is reintroduced in March as one of the first bills in the new Conservative Government and receives the support of all parties.

2007

**Reference Database**
The Commission's annual update of the scientific reference database of 2900 ingredients found in chemical products is completed by adding publications of 708 new ingredients.

2007

**Legislative change**
Three key amendments to the *Hazardous Materials Information Review Act* receive Royal Assent—simplifying and streamlining the claims process.

2007

**New leadership**
A 20-year veteran of HMIRC, Sharon Watts takes on the role of President and CEO, initiating a three-year plan to reduce the claims backlog, improve organizational efficiency and effectiveness, and continue the legislative reform initiative to completion.

2008

**Regulatory reform**
Regulatory amendments resulting from 2007 legislative changes are defined and implemented.

2008

**First appeal in eight years**
The Commission receives its first appeal in eight years.

2008

**Business case to eliminate a chronic backlog of claims**
HMIRC's business case, endorsed by Health Canada, is funded to eliminate a chronic backlog of claims over three years.

2009

**Organizational capacity and staff development**
With funding from Treasury Board, HMIRC adopts a new recruitment and training protocol.

2009

**Workshop for stakeholders**
The Commission conducts its second workshop for stakeholders in order to present among other things, the amendments to the *Hazardous Materials Information Review Act* (HMIRA), the *Hazardous Materials Information Review Regulations* (HMIRR) and to the *Hazardous Materials Information Review Act Appeal Board Procedures Regulations* that came into effect on October 1, 2008.

2009

**Eliminating the Backlog of Claims**
During the first year of its three-year backlog elimination plan, the Commission reduces the backlog of claims by 49.8%.

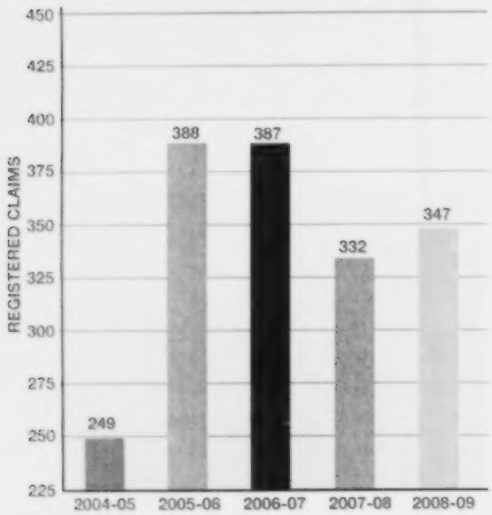
Performance

# Data

## Claims Registration

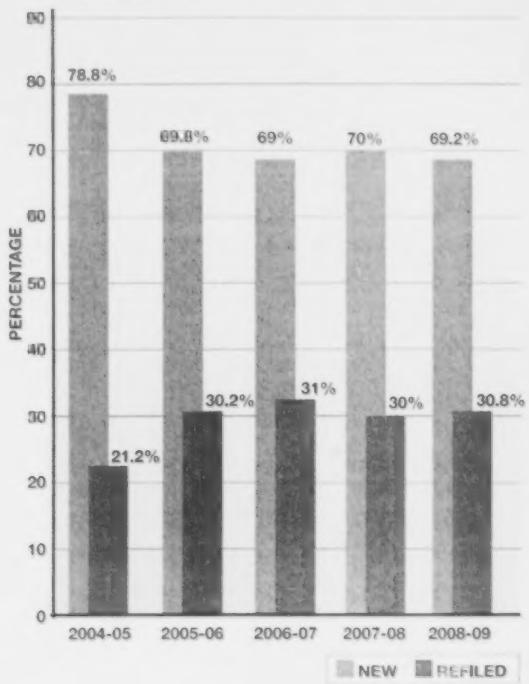
A total of 347 claims for exemption were registered with the Hazardous Materials Information Review Commission in 2008-2009. All eligible claims were verified and registered within seven days, in keeping with the Commission's service standard—in recognition of industry's need for a swift time to market for new products.

**CLAIMS REGISTERED OVER LAST 5 YEARS**



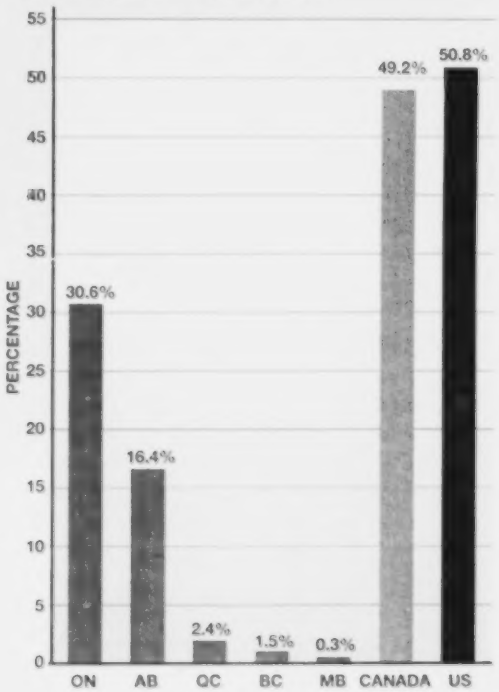
Eligible claims represented 82% of claims submitted; for the remaining 18%, applicants were required to provide additional information before registration could be completed. Approximately 69% of claims for exemption were original filings; 31% were refiling of previously approved claims. These percentages have remained steady over the last four years.

**NEW AND REFILED CLAIMS REGISTERED – LAST 5 YEARS**




Nearly 51% of claims for exemption came from U.S. suppliers, who must comply with Canadian regulations to compete fairly in the Canadian market. The remaining 49% of claims were submitted by Canadian suppliers—most from Ontario, a trend that has emerged over the last five years. There seems to be a shift towards a higher percentage of U.S. claims.

**PROVINCIAL, CANADA AND US ORIGIN OF CLAIMS IN 2008-09**

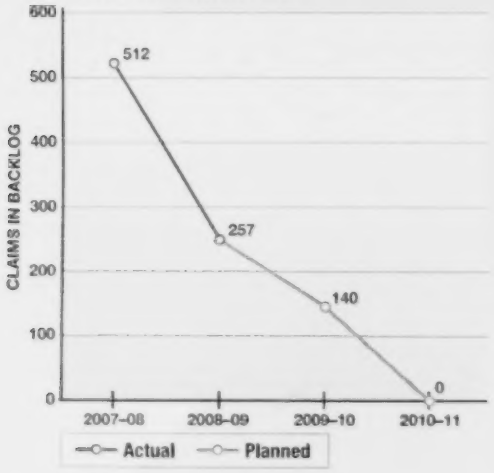


## Claim Processing

In 2008-09, HMIRC initiated its three-year backlog reduction plan. Decisions were issued on a total of 504 claims for exemption.

The Commission continued to give priority attention to claims for products likely to pose major health risks for workers. Of the 504 decisions issued, 50% were classified as high-hazard; which are claims with ingredients likely to pose a high risk to workers. These were reviewed without significant delay so that corrected MSDSs could reach the workplace quickly.

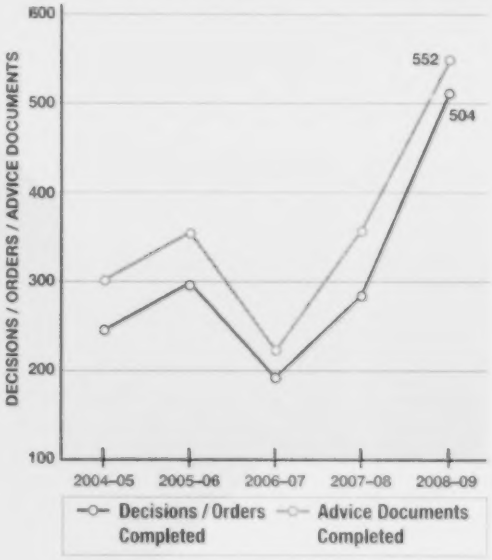
**BACKLOG ELIMINATION PLAN**




## Advice Documents

The Commission has achieved its target for the past year of the backlog reduction plan completing 552 advice documents and issued 504 decisions.

**NUMBER OF ADVICE DOCUMENTS AND DECISIONS/ORDERS COMPLETED – LAST 5 YEARS**




## Dispute Prevention

Last year, the Commission successfully addressed 355 claimant inquiries. Through dialogue and information-sharing, HMIRC helped resolve all issues, clarify requirements and avert disputes and only received one appeal.

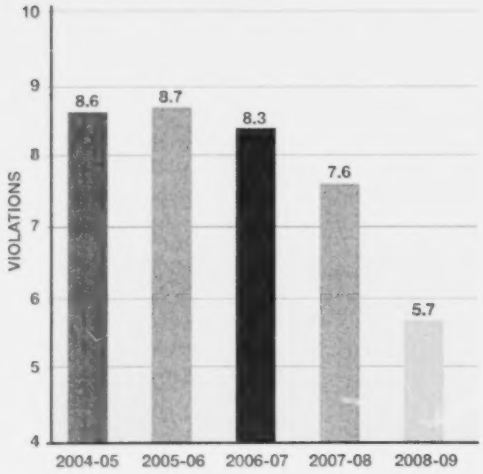
## Compliance Trends

Over the past couple of years, the Commission has noted a decrease in the number of corrections required to MSDSs, due in large part to initiatives put in place by HMIRC. For example, claimants are provided with more guidance on the requirements of an MSDS thereby resulting in more accurate and complete data sheets. In addition, as the Commission continues to reduce its backlog of older claims, it is beginning to review more recent claims with more accurate, up-to-date information on their MSDSs.

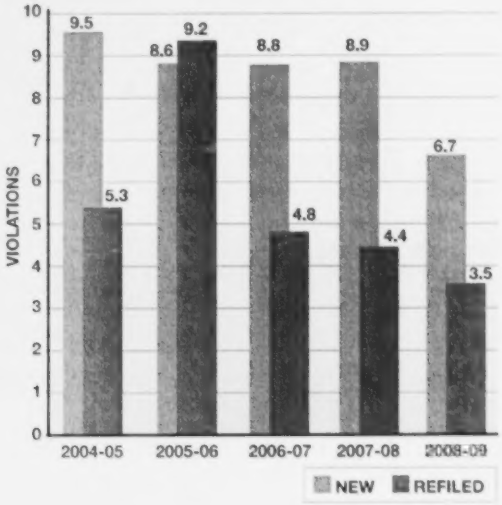
**VIOLATIONS PER CLAIM**

| | |
|---|---|
| Overall claims (504): | 5.7 instances of non-compliance |
| Original claims (348): | 6.7 instances of non-compliance |
| Refiled claims (156): | 3.5 instances of non-compliance |

**NUMBER OF VIOLATIONS PER CLAIM – LAST 5 YEARS**

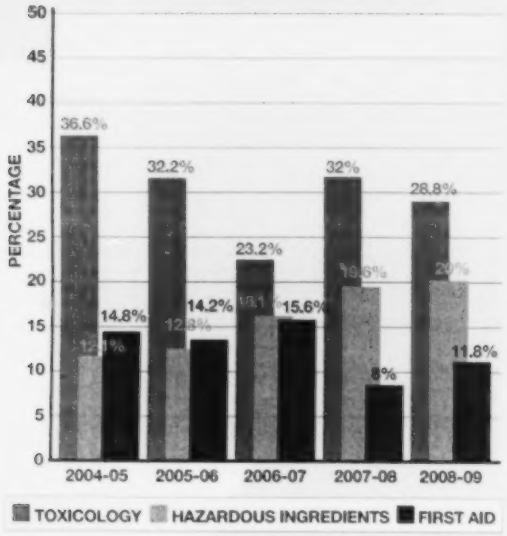



**NUMBER OF VIOLATIONS PER CLAIM NEW VS. REFILED – LAST 5 YEARS**



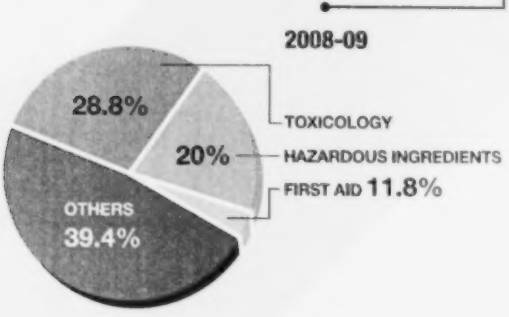
The majority of violations fall within the categories of toxicology, identity of hazardous ingredients and first aid. Accuracy in these three areas is critical. In the toxicology category for example, high percentage of violations were recorded for acute exposure effects. If these effects are not known, the appropriate protective measures will not be taken potentially resulting in fatal consequences.

**VIOLATIONS FOR TOXICOLOGY, HAZARDOUS INGREDIENTS, FIRST AID**




**MSDS VIOLATIONS IN 2008-09**

| Violations Category | Number of Violations in 2008-09 | % |
|---|---|---|
| Toxicological Properties | 825 | 28.8 |
| Hazardous Ingredients | 571 | 20.0 |
| First Aid Measures | 339 | 11.8 |
| Headings/ Format, etc. | 302 | 10.6 |
| Preparation Information | 240 | 8.4 |
| Reactivity Data | 183 | 6.4 |
| Physical Data | 128 | 4.5 |
| Fire or Explosion Hazard | 112 | 3.9 |
| Hazard Classification | 91 | 3.2 |
| Preventive Measures | 37 | 1.3 |
| Product Information | 33 | 1.2 |
| Total | 2861 | 100 |
| Number of claims | 504 | |
| Average number of violations per claim | 5.7 | |



# Financial Summary

## Revenue

(in thousands of dollars)

| | |
|---|---|
| **From Claims for Exemption** | $578 |

## Expenditures*

(in thousands of dollars)

| | |
|---|---|
| **Total Expenditures** | $4,452 |

## Human Resources

(full-time equivalent staff)

| | |
|---|---|
| **Office of the President** | 2 |
| **Operations Branch** | 35 |
| **Corporate Services and Adjudication Branch** | 15 |
| **Total Human Resources** | 52 |

* Increase in expenditures and human resources is a direct result of the Commission's undergoing of the three-year sunsetting program for backlog elimination.

Additional information on financial statements can be found for:

Report on Plans and Priorities (RPP) 2008-09
**http://www.tbs-sct.gc.ca/rpp/2008-2009/inst/mhi/mhioo-eng.asp**

Departmental Performance Report (DPR) 2007-08
**http://www.tbs-sct.gc.ca/dpr-rmr/2007-2008/index-eng.asp?acr=38**

# Council of Governors

**WORKERS**

Mr. Lawrence D. Stoffman

United Food & Commercial Workers Union

Vacant

**SUPPLIERS**

Mr. Gordon Lloyd

Canadian Chemical Producers' Association

**EMPLOYERS**

Mr. William Gombos

Emerson Electric Canada Limited

**GOVERNMENT OF CANADA**

Mr. Fulvio Fracassi

Human Resources and Social Development Canada

**NORTHWEST TERRITORIES/ NUNAVUT**

Mr. Bruce Graney

Northwest/Nunavut Workers' Compensation Board

**YUKON**

Mr. Kurt Dieckmann

Yukon Workers' Compensation Health and Safety Board

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Commission de la santé et de la sécurité du travail

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Department of Government Services, Newfoundland and Labrador

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WorkSafeBC

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Workers' Compensation Board of Prince Edward Island

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Mr. Dan T. Clarke

Alberta Human Resources and Employment

**NOVA SCOTIA**

Mr. Jim LeBlanc

Nova Scotia Department of Environment and Labour

**NEW BRUNSWICK**

Mr. Richard Blais

Workplace Health, Safety and Compensation Commission of New Brunswick

**SASKATCHEWAN**

Ms. Rita Coshan

Saskatchewan Labour

**MANITOBA**

Mr. Dennis Nikkel

Manitoba Labour and Immigration

**ONTARIO**

Mr. John Vander Doelen

Ontario Ministry of Labour

Overview
of the Claim for

# Exemption Process

The Workplace Hazardous Materials Information System (WHMIS) requires chemical suppliers to provide employers with information on the hazards of materials produced or used in Canadian workplaces. This information is communicated via product labels and material safety data sheets (MSDSs). Producers must disclose their products' health and safety risks, among other things, their procedures for safe handling, storage, transportation, disposal and first-aid treatment.

A supplier or employer wanting to protect confidential business information must file a claim for exemption with the Hazardous Materials Information Review Commission. For the product to be legally available on the Canadian market, a registry number issued by HMIRC is required on the MSDS and, for certain claims, on the label.

A claimant may decide to withdraw a claim at any stage of the process.

## Submitting a claim

Claims for exemption are submitted directly to the Commission. (For more about submitting a claim, visit HMIRC online at **www.hmirc-ccrmd.gc.ca**.)

## Pre-registration check

When the Commission receives a claim, staff verify that the application and accompanying MSDSs and labels are complete and contain no obvious errors. They also collect and verify fees.

## Registering a claim

Once an application is complete and correct, the claim is assigned a registration number that appears on the MSDS in place of the product's confidential business information. This allows the company to import or sell its product in Canada while the decision-making process continues.

A notice of filing that outlines the basic characteristics of the claim is published in Part I of the *Canada Gazette*, giving anyone affected by the product the opportunity to write to the Commission and advise whether the claim should or should not be judged valid.

## Reviewing a claim

Using the most recent scientific information available, HMIRC's health and safety evaluators review each MSDS against the regulatory criteria outlined in the *Hazardous Products Act* and the *Controlled Products*

*Regulations*, advising screening officers of any errors or omissions. The screening officers then review the economic and security information provided by the claimant and determine if the claim is valid.

## Rendering a decision

At the end of both the MSDS and claim reviews, decisions and a compliance undertaking are sent out to the claimant as appropriate. Once a claim is found to be valid, the claimant is granted an exemption for three years, at which point the claim will need to be refiled if the exemption is to continue.

When an MSDS does not meet the regulatory requirements, the claimant is sent an undertaking giving 30 days to make any necessary changes voluntarily and return the MSDS to the Commission. If the claimant does not make the changes or the corrections are unsatisfactory, the screening officer issues a formal Order that becomes legally binding 45 days after the publication of the deficiencies in the *Canada Gazette*.

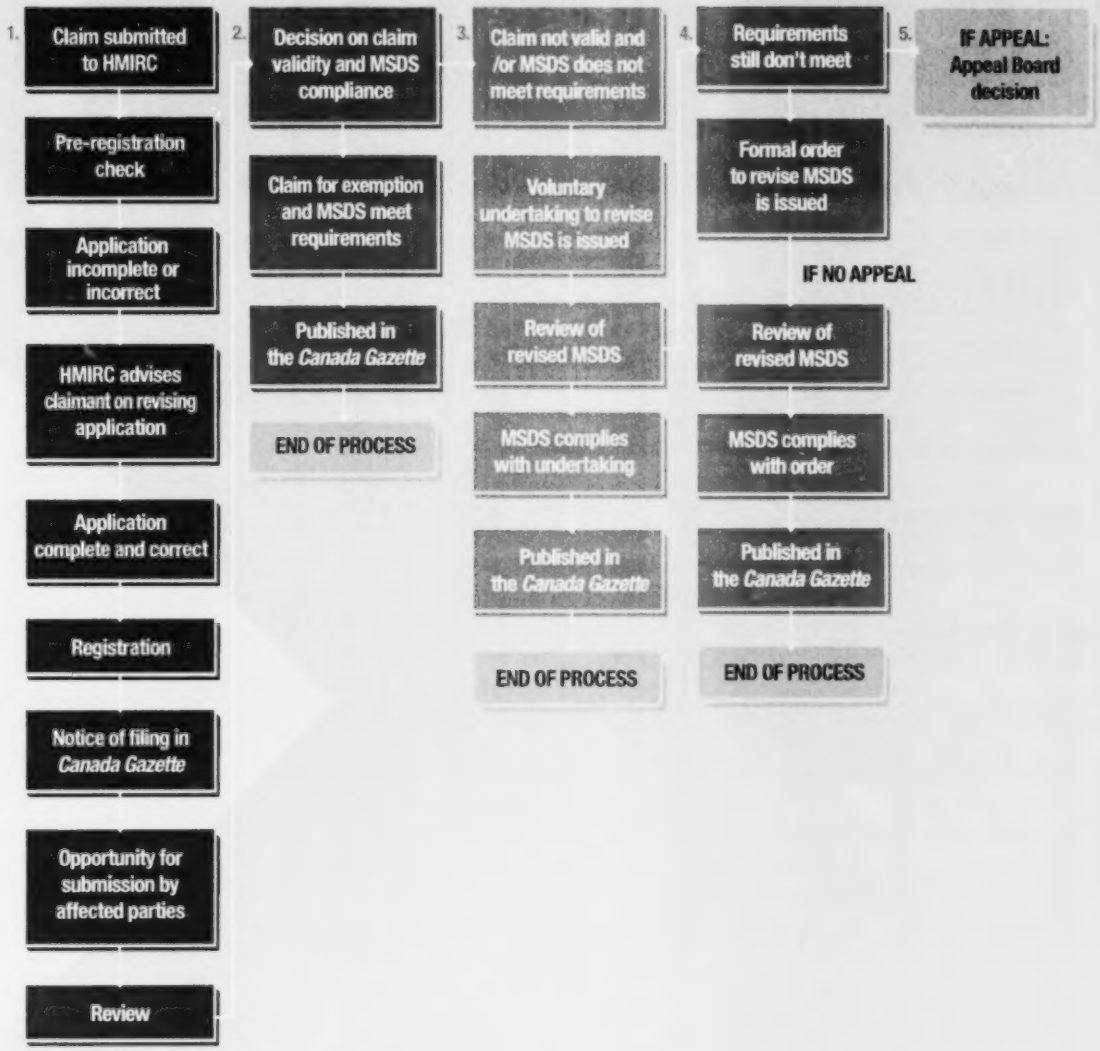
If a claim is found to be invalid because the information submitted to HMIRC insufficiently supports either the economic value of the product or the need to protect its confidentiality, the claimant is required to declare all ingredients and concentrations on the MSDS or withdraw the product from the market.

## Filing appeals

When a decision, order or undertaking is published in the *Canada Gazette*, claimants and affected parties have 45 days to file an appeal. On filing, a notice of appeal is published in the *Canada Gazette* to provide any other affected parties the opportunity to make representations to the appeal board. The appeal board consists of three members: one from government, another from industry and a third from organized labour. The length of the appeals process varies with the complexity of each case.

The appeal board decides whether to dismiss the appeal and confirm the screening officer's decision, undertaking and order, or to allow the appeal and either vary or rescind the decision, undertaking or order. A notice of decision, including the reasons for it, is published in the *Canada Gazette*.

## OVERVIEW OF THE CLAIM FOR EXEMPTION PROCESS


1.
Claim submitted to HMIRC
Pre-registration check
Application incomplete or incorrect
HMIRC advises claimant on revising application
Application complete and correct
Registration
Notice of filing in Canada Gazette
Opportunity for submission by affected parties
Review
2.
Decision on claim validity and MSDS compliance
Claim for exemption and MSDS meet requirements
Published in the Canada Gazette
END OF PROCESS
3.
Claim not valid and /or MSDS does not meet requirements
Voluntary undertaking to revise MSDS is issued
Review of revised MSDS
MSDS complies with undertaking
Published in the Canada Gazette
END OF PROCESS
4.
Requirements still don't meet
Formal order to revise MSDS is issued
IF NO APPEAL
Review of revised MSDS
MSDS complies with order
Published in the Canada Gazette
END OF PROCESS
5.
IF APPEAL: Appeal Board decision

# Our Contact Information

Hazardous Materials
Information Review Commission

427 Laurier Avenue West, 7th floor
Ottawa, Ontario
K1A 1M3

Tel: 613.993.4331
Fax: 613.993.5016

Visit our Website at:
**www.hmirc-ccrmd.gc.ca**